

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 675**

**Introduced by Assembly Member Thomson**  
*(Principal coauthor: Senator Burton)*

February 23, 1999

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An act to add Section 2725.2 to the Business and Professions Code, and to amend Sections 1279 and 1280 of, and to add ~~Section 1279.1~~ *Sections 1279.1 and 1279.2* to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 675, as amended, Thomson. Health facilities: registered nurses.

Existing law provides for the licensure of, and sets forth the scope of practice for, registered nurses.

This bill would require every registered nurse who manages, *or* supervises, ~~assigns, or delegates~~ care provided by specified health care personnel to assure that the care is safely delegated.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. Existing law requires that certain health facilities for which a license or special permit has been issued that are certified to participate either in the Medicare program or in the medicaid program, or both, be periodically inspected by representatives of the department.

This bill would require the department to assure that these periodic inspections are not announced in advance of the date of the inspection. The bill would authorize the department to conduct joint inspections with other certifying entities ~~only to the extent that the entities do not inform the facility to be inspected of the expected date of the inspection~~ *but would require that if the department conducts any inspections jointly with any certifying entity that provides notice in advance, the department shall conduct an additional periodic inspection.*

The bill would require the department to obtain and make available to the public any documents relating to certification for participation in the Medicare program or the medicaid program, or both, unless the disclosure of the documents is expressly prohibited by federal law. The bill would require the department to obtain and make available to the public documents demonstrating compliance with regulations regarding adequate staffing of health facilities.

Existing law requires the department to notify a health facility of all deficiencies in its compliance with provisions governing health facilities and requires the health facility to agree with the department upon a plan of correction that gives the health facility a reasonable time to correct the deficiencies. Existing law authorizes the director to take action to revoke or suspend the license of the health facility if at the end of the allotted time, as revealed by inspection, the health facility has failed to correct the deficiencies.

Existing law designates specific procedures with regard to a general acute care hospital, an acute psychiatric hospital, or a special hospital that fails to implement a plan of correction that has been agreed upon by both the facility and the department or where a condition in the facility poses an immediate and substantial hazard to the health and safety of patients.

This bill would revise and recast these provisions regarding the correction of deficiencies at a general acute care hospital, an acute psychiatric hospital, or special hospital.

*This bill would require certain health facilities to provide sufficient staff to ensure safe patient care, to implement a*



*patient classification system, to review the system, and to make changes in certain circumstances.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2725.2 is added to the Business  
2 and Professions Code, to read:

3 2725.2. Every registered nurse who manages;  
4 ~~supervises, assigns, or delegates~~ *or supervises* care  
5 provided by other registered nurses, licensed vocational  
6 nurses, certified nurse's aides, or any other health care  
7 personnel shall assure that the care is safely delegated.

8 SEC. 2. Section 1279 of the Health and Safety Code is  
9 amended to read:

10 1279. (a) Every health facility for which a license or  
11 special permit has been issued, except a health facility, as  
12 defined in subdivisions (b) to (k), inclusive, of Section  
13 1250, that is certified to participate either in the Medicare  
14 program under Title XVIII (42 U.S.C. Sec. 1395 et seq.)  
15 of the federal Social Security Act, or in the medicaid  
16 program under Title XIX (42 U.S.C. Sec. 1396 et seq.) of  
17 the federal Social Security Act, or both, shall be  
18 periodically inspected by a representative or  
19 representatives appointed by the state department,  
20 depending upon the type and complexity of the health  
21 facility or special service to be inspected. If the health  
22 facility is deemed to meet standards for certification to  
23 participate in either the Medicare program or the  
24 medicaid program, or both, because the health facility  
25 meets the standards of an agency other than the Health  
26 Care Financing Administration, then, in order for the  
27 health facility to qualify for the exemption from periodic  
28 inspections provided in this section, the inspection to  
29 determine that the health facility meets the standards of  
30 an agency other than the Health Care Financing  
31 Administration shall include participation by the  
32 California Medical Association to the same extent as it  
33 participated in inspections as provided in Section 1282

1 prior to the date this section, as amended by S.B. 1779 of  
2 the 1991–92 Regular Session, becomes operative.  
3 Inspections shall be conducted no less than once every  
4 two years and as often as necessary to insure the quality  
5 of care being provided. However, for a health facility  
6 specified in subdivision (a) or (b) of Section 1250,  
7 inspections shall be conducted no less than once every  
8 three years, and as often as necessary to insure the quality  
9 of care being provided. During the inspection, the  
10 representative or representatives shall offer such advice  
11 and assistance to the health facility as they deem  
12 appropriate.

13 (b) For acute care hospitals of 100 beds or more, the  
14 inspection team shall include at least a physician,  
15 registered nurse, and persons experienced in hospital  
16 administration and sanitary inspections. During the  
17 inspection, the team shall offer such advice and assistance  
18 to the hospital as it deems appropriate.

19 (c) The department shall assure that periodic  
20 inspections conducted pursuant to this section are not  
21 announced in advance of the date of the inspection.  
22 Inspections may be conducted jointly with other  
23 inspections by other certifying ~~entities only to the extent~~  
24 ~~that the entities do not inform the facility to be inspected~~  
25 ~~of the expected date of the inspection.~~ *entities. However,*  
26 *if the department conducts any inspection jointly with*  
27 *any certifying entity that provides notice in advance, the*  
28 *department shall conduct an additional periodic*  
29 *inspection that is unannounced prior to the periodic*  
30 *inspection required by subdivision (a).*

31 SEC. 3. Section 1279.1 is added to the Health and  
32 Safety Code, to read:

33 1279.1. (a) The state department shall obtain and  
34 make available to the public any documents relating to  
35 certification for participation in the Medicare program or  
36 the medicaid program, or both, unless the disclosure of  
37 the documents is expressly prohibited by federal law.

38 (b) The state department shall obtain and make  
39 available to the public documents demonstrating

1 compliance with regulations regarding adequate staffing  
2 of health facilities.

3 *SEC. 3.5. Section 1279.2 is added to the Health and  
4 Safety Code, to read:*

5 *1279.2. Every health facility licensed pursuant to  
6 subdivision (a), (b) or (f) of Section 1250 shall provide  
7 sufficient staff to ensure safe patient care. Each facility  
8 shall implement a patient classification system. The  
9 patient classification system shall meet the following  
10 requirements:*

11 *(a) It shall be scientifically validated at least annually  
12 or whenever a change in the system is proposed.*

13 *(b) It shall be demonstrated to be understood by the  
14 direct care nurses responsible for implementing care on  
15 the basis of it.*

16 *(c) It shall ensure that safe care is provided by  
17 sufficient, appropriately qualified health personnel,  
18 unhindered by fiscal and administrative management.*

19 *(d) It shall be developed with the involvement of all  
20 direct care staff, including licensed nurses and any other  
21 direct care staff, with the representatives involved in this  
22 process to be selected by the collective bargaining agent,  
23 if any, or by the direct care staff if no collective bargaining  
24 agent represents the employees.*

25 *(e) It shall provide for a mechanism to appeal  
26 insufficient staffing to the director of nursing care.*

27 *(f) It shall be reviewed annually to ensure continued  
28 adequacy of staffing or more frequently than annually if  
29 warranted by the changes in the patient population, skill  
30 mix of the staff, or patient care delivery modes.*

31 *(g) It shall be reviewed and corrected within 30 days  
32 whenever a facility has a deficiency related to staffing.*

33 *(h) Staffing shall be adjusted daily or more frequently  
34 based on the assessed needs of the patients.*

35 *(i) Changes in the patient classification system shall be  
36 validated by outcome data demonstrating a lack of  
37 patient harm, including patient mortality, morbidity,  
38 nosocomial infections, injuries, and other indicators as  
39 determined by the department.*

1 SEC. 4. Section 1280 of the Health and Safety Code is  
2 amended to read:

3 1280. (a) The state department may provide  
4 consulting services upon request to any health facility to  
5 assist in the identification or correction of deficiencies or  
6 the upgrading of the quality of care provided by the  
7 health facility.

8 (b) The state department shall notify the health  
9 facility of all deficiencies in its compliance with this  
10 chapter and the rules and regulations adopted  
11 hereunder, and the health facility shall agree with the  
12 state department upon a plan of correction that shall give  
13 the health facility a reasonable time to correct these  
14 deficiencies. If at the end of the allotted time, as revealed  
15 by inspection, the health facility has failed to correct the  
16 deficiencies, the director may take action to revoke or  
17 suspend the license.

18 (c) (1) If any condition within a health facility  
19 licensed under subdivision (a), (b), or (f) of Section 1250  
20 poses an immediate and substantial hazard to the health  
21 or safety of patients, the department may order any of the  
22 following until the condition is corrected:

23 (A) Reduction in the number of patients.

24 (B) Closure of the unit or units in the facility that pose  
25 the risk. If the unit to be closed is an emergency room in  
26 a designated facility, as defined in Section 1797.67, the  
27 state department shall notify and coordinate with the  
28 local emergency medical services agency.

29 (C) Imposition of a plan of correction proposed by the  
30 state department.

31 (D) Civil penalties not to exceed fifty dollars (\$50) per  
32 patient affected by the hazard for each day that the  
33 immediate and substantial hazard continues.

34 (2) The order of the state department pursuant to  
35 paragraph (1) shall be in writing and shall contain a  
36 statement of the reasons for the order. If the state  
37 department fails to take any of these steps, it shall provide  
38 a statement of reasons for the failure to act to protect  
39 patients. If the licensee disputes the order by the state  
40 department regarding this subdivision, the licensee shall

1 deposit an amount equal to the proposed fine, if any, that  
2 shall be returned if the licensee prevails and the licensee  
3 may, within 10 days, request a hearing pursuant to Section  
4 100171. The licensee may also propose a more efficient or  
5 effective means of remedying the deficiency and the  
6 director shall review the information provided by the  
7 facility, the state department, and other interested  
8 parties and within a reasonable period of time render a  
9 decision on alternatives proposed by the facility.

10 (d) If the deficiencies do not pose an immediate and  
11 substantial hazard to the health or safety of patients, a  
12 health facility licensed under subdivision (a), (b), or (f)  
13 of Section 1250 shall agree with the state department  
14 upon a plan of correction that shall give the health facility  
15 a reasonable period of time to correct the deficiencies. If  
16 at the end of a reasonable period of time, the facility has  
17 failed to implement fully a plan of correction that has  
18 been agreed upon by both the facility and the state  
19 department, the state department may order  
20 implementation of the plan of correction previously  
21 agreed to by both the facility and the state department.  
22 If the facility and the state department fail to agree upon  
23 a plan of correction within a reasonable period of time,  
24 the state department shall order implementation of a  
25 plan of correction devised by the state department. The  
26 order shall be in writing and shall contain a statement of  
27 reasons for the order.

28 (e) *Any facility that is cited for a deficiency shall be*  
29 *inspected onsite to ensure correction of the deficiency.*  
30 *Verbal assurances by representatives of the facility shall*  
31 *not be deemed to be a substitute for the onsite review.*

32 (f) If a health facility licensed under subdivision (a),  
33 (b), or (f) of Section 1250 is subject to action pursuant to  
34 subdivision (c) or if that facility fails to correct  
35 deficiencies as provided in subdivision (d), the director  
36 may take action to revoke or suspend the facility's license.

37 ~~(f)–~~

38 (g) Reports on the results of each inspection of a health  
39 facility shall be prepared by the inspector or inspector  
40 team and shall be kept on file in the state department

1 along with the plan of correction and health facility  
2 comments. The inspection report may include a  
3 recommendation for reinspection. Inspection reports of  
4 an intermediate care facility/developmentally disabled  
5 habilitative or an intermediate care  
6 facility/developmentally disabled—nursing shall be  
7 provided by the state department to the appropriate  
8 regional center pursuant to Chapter 5 (commencing with  
9 Section 4620) of Division 4.5 of the Welfare and  
10 Institutions Code.

11 ~~(g)–~~

12 (h) All inspection reports and lists of deficiencies shall  
13 be open to public inspection at the state department  
14 when the state department has received verification that  
15 the health facility has received the report from the state  
16 department. All plans of correction shall be open to  
17 public inspection upon receipt by the state department.

18 ~~(h)–~~

19 (i) In no event shall the act of providing a plan of  
20 correction, the content of the plan of correction, or the  
21 execution of a plan of correction, be used in any legal  
22 action or administrative proceeding as an admission  
23 within the meaning of Sections 1220 to 1227, inclusive, of  
24 the Evidence Code against the health facility, its licensee,  
25 or its personnel.

